

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

ANDY CHUNG,

6:15-cv-1624-TC

Plaintiff,

FINDINGS AND RECOMMENDATION

v.

FM 107.5 DJs, KRISTINA, COOLNUT,
BIGGER BOY

Defendants.

COFFIN, Magistrate Judge:

Pro se plaintiff, Andy Chung, submitted his complaint on August 27, 2015, alleging harassment and invasion of privacy. On September 4, 2015, after granting plaintiff *in forma pauperis* status, the court noted deficiencies in the complaint. Chief among those deficiencies was a failure to allege a basis for federal court jurisdiction. For instance, the court explained a need for allegations demonstrating action under color of law to assert a claim under 42 U.S.C. § 1983. Because the alleged tortfeasors are private individuals, the court further instructed plaintiff about the necessity for allegations of joint-activity with the police, if possible, with whom the alleged tortfeasors filed a report.

On September 16, 2015, plaintiff filed a response to the order to file an amended complaint.

The proposed amendments with regard to action under color of law merely read: "The radio business manager and DJs virtue [sic] false report lending me to incarceration."

Response (#7) at p. 1.

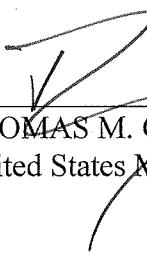
The proposed amendment is devoid of any facts suggestive of any action under color of law for purposes of section 1983 claim. There are no allegations suggesting there is any basis for federal question jurisdiction and the complaint should be dismissed.

CONCLUSION

For the reasons stated above, the court lacks jurisdiction to entertain plaintiff's complaint and this action should be dismissed.

This recommendation is not an order that is immediately appealable to the Ninth Circuit Court of appeals. Any notice of appeal pursuant to Rule 4(a)(1), Federal Rules of Appellate Procedure, should not be filed until entry of the district court's judgment or appealable order. The parties shall have fourteen (14) days from the date of service of a copy of this recommendation within which to file specific written objections with the court. Thereafter, the parties shall have fourteen (14) days within which to file a response to the objections. Failure to timely file objections to any factual determination of the Magistrate Judge will be considered as a waiver of a party's right to de novo consideration of the factual issues and will constitute a waiver of a party's right to appellate review of the findings of fact in an order or judgment entered pursuant to this recommendation.

DATED this 23 day of September 2015.


THOMAS M. COFFIN
United States Magistrate Judge